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Attorneys for defendants Schwab Investments, Charles Schwab
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Smith, Donald R. Stephens, Michael W. Wilsey, Charles R.
Schwab, Randall W. Merk, Joseph H. Wender, and John F.
Cogan

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NORTHSTAR FINANCIAL ADVISORS, INC.,
on Behalf of Itself and All Others Similarly
Situated,

Plaintiff,

v.

SCHWAB INVESTMENTS, and MARIANNE
BYERWALTER, DONALD F. DORWARD,
WILLIAM A. HASLER, ROBERT G. HOLMES,
GERALD B. SMITH, DONALD R. STEPHENS,
MICHAEL W. WILSEY, CHARLES R.
SCHWAB, RANDALL W. MERK, JOSEPH H.
WENDER, and JOHN F. COGAN as TRUSTEES
OF SCHWAB INVESTMENTS; and CHARLES
SCHWAB INVESTMENT MANAGEMENT,
INC.

Defendants.

Case No. CV-08-4119 LHK (PVT)

CLASS ACTION

STIPULATION AND ~~PROPOSED~~
ORDER RE MOTION TO
CONSOLIDATE

Courtroom: 4, 5th Floor
Judge: Hon. Lucy H. Koh

Date Action Filed: Aug. 23, 2008

1 JERRY SMIT, individually and on behalf of all
2 others similarly situated,

3 Plaintiff,

4 v.

5 CHARLES SCHWAB & CO., INC., SCHWAB
6 INVESTMENTS, and CHARLES SCHWAB
7 INVESTMENT MANAGEMENT, INC.,

8 Defendants.

Case No. CV-10-3971 JSW

CLASS ACTION

Date Action filed: September 3, 2010

1 WHEREAS, on October 11, 2010, defendants Schwab Investments, Charles Schwab
 2 Investment Management, Inc., Marianne Byerwalter, Donald F. Dorward, William A. Hasler,
 3 Robert G. Holmes, Gerald B. Smith, Donald R. Stephens, Michael W. Wilsey, Charles R.
 4 Schwab, Randall W. Merk, Joseph H. Wender, and John F. Cogan (collectively "Defendants"),
 5 are filing a Motion to Consolidate Cases CV-08-4119 LHK and CV-10-03971 JSW.

6 WHEREAS, Jerry Smit, the plaintiff in *Smit v. Charles Schwab & Co., Inc.*, No. CV-10-
 7 3971 JSW, agrees that these cases should be consolidated and hereby stipulates to such
 8 consolidation;

9 WHEREAS, the plaintiff in *Northstar Financial Advisors, Inc. v. Schwab Investments*,
 10 CV-08-4119 LHK, anticipates that it will oppose Defendants' Motion to Consolidate Cases;

11 WHEREAS, the parties have met and conferred regarding a briefing schedule on
 12 Defendants' motion and for the convenience of the Court and the parties wish to have it heard on
 13 the same day as Defendants' motions to dismiss the *Northstar* and *Smit* actions, which are
 14 currently set for January 13, 2011;

15 IT IS HEREBY STIPULATED AND AGREED among the undersigned parties, subject to
 16 Court approval, that Defendants shall file their motion to consolidate on October 11, 2010,
 17 Plaintiff Smit will file supporting papers, if any, on or before November 5, 2010, Defendants shall
 18 file their motions to dismiss the *Northstar* and *Smit* actions on or before November 10, 2010, and
 19 Northstar Financial Advisors, Inc. shall file its opposition to Defendants' motion to consolidate
 20 on November 19, 2010, and Defendants shall file their reply on the motion to consolidate on
 21 December 21, 2010. The hearing on Defendants' motion to consolidate shall be set for January
 22 13, 2011 at 1:30 p.m. or as soon thereafter as the matter may be heard

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1 IT IS SO STIPULATED.

2 Dated: October 11, 2010

DARRYL P. RAINS
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DOROTHY L. FERNANDEZ
MORRISON & FOERSTER LLP

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4
5 By: /s/ Dorothy L. Fernandez
Dorothy L. Fernandez

6 Attorneys for Defendants

7 Dated: October 11, 2010

WOLF POPPER LLP

8 By: /s/ Robert C. Finkel
Robert C. Finkel
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22 Liaison Counsel for Plaintiff Northstar Financial
23 Advisors, Inc.

1 Dated: October 11, 2010

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16 Counsel for Plaintiff Smit and the Proposed Class

17 IT IS SO ORDERED.

18 Dated: October 12, 2010

19 
20 HONORABLE LUCY H. KOH
21 UNITED STATES DISTRICT JUDGE
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